IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 645 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAGGU SEVAKRAM SINDHI

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMIZI for Appellants

MR HL JANI Ld. APP for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 22/09/2000

ORAL JUDGEMENT

This appeal is directed against the impugned judgment and order dated 25.9.1989 rendered by the learned City Sessions Judge, Ahmedabad in Sessions Case No. 214/1988. The appellants who have been described as the accused persons were convicted of the offence

punishable under sec. 143, 451, 147, 427, 149 read with section 436 of IPC and they were punished as per the following particulars:

Section of IPC under which convicted	Substantive sentence	Fine Rs.	Imprisonment in default of payment of fine.
1. 143	3 month's RI	-	-
2. 147	6 month's RI	-	-
3. 451	1 year's RI further RI	Rs.1000/	3 month's
4. 427/149	6 month's RI	-	-
5. 436/149	1 year's RI further RI	Rs.1000/	3 month's

The substantive sentences ordered above shall run concurrently.

Out of the fine, if and when recovered, Rs. 1000/ shall be paid by way of compensation to Shyamlal Jiamal Sindhi, the first informant in the case, who is PW No. 1 before me. This amount of compensation shall be paid to Shyamlal, P.W. 1, after the period for filing the appeal is over, and if any appeal comes to be filed after the decision of the appeal."

The present appellants being the accused have preferred this conviction appeal against the conviction and sentence as aforesaid. After the same was admitted, it has come up for final hearing before this Court. Mr. Tirmizi learned advocate appearing for the appellants read the judgment of the trial court as also some part of evidence. He ultimately concentrated and canvassed against the sentence imposed against the appellants pointing out their respective circumstances more particularly the circumstance that nearly 11 years have passed since the sentence was imposed against them and nearly 13 years have passed since the incident in question occurred. I have heard learned advocate for the appellants as well as learned APP for the State on the sentence aspect. At this belated stage after passage of time nearly 11 to 13 years, I am of the opinion that no useful purpose will be served in sending the appellants behind the bars, instead, it would be just and proper to impose more fine so that the complainant might be adequately compensated. On scrutiny of the custody of

the appellants, it has been submitted that first 5 appellants have already undergone the custody of around 8 days, whereas the appellants no. 6,7 and 8 were on bail right from the inception. Bearing in mind all the facts and circumstances of the case as well as passage of so long a time as aforesaid, following directions are issued:

a) conviction of the appellants-accused persons as recorded by the trial court is hereby confirmed.

b) substantive sentence on all the counts as aforesaid shall stand reduced to one undergone so far as first 5 appellants are concerned, whereas the substantive sentence of appellants no. 6, 7 and 8 is reduced to one till the rising of the court, however, sentence of fine as imposed by the trial court under sec. 451 and 436/149 of IPC is increased to sentence of fine of Rs. 2000/ for each of the accused persons under sec. 451 of the IPC as also Rs. 2000/ for each of the accused persons for the offence under sec. 436/149 of IPC whereas the default sentence of three months R.I. shall stand replaced by six month's R.I., if default in payment of fine is made. The fine shall be deposited in the trial court within a period of two weeks from today. Out of the enhanced amount of fine deposited, 50% of the amount of fine shall also be paid over to the complainant by the trial court. The sentence till the rising of the court in so far as the appellants no. 6,7 and 8 namely Revachand Thandumal Sindhi, Chetandas Hemandas Sindhi and Amar Mangirmal Sindhi are concerned, shall also be executed before the trial court. The said appellants shall remain present before the trial court on 6.10.2000.

Bail bonds will be cancelled and discharged upon execution of sentence as above.

This appeal accordingly stand partly allowed to the aforesaid extent only.

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